

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 3. AGRICULTURE

#### CHAPTER 9. DEPARTMENT OF AGRICULTURE AGRICULTURAL COUNCILS AND COMMISSIONS

#### PREAMBLE

**1. Sections Affected**

Article 5  
R3-9-501  
R3-9-502  
R3-9-503  
R3-9-504  
R3-9-505

**Rulemaking Action**

New Article  
New Section  
New Section  
New Section  
New Section  
New Section

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 3-468.02(C)(9)

Implementing statute: A.R.S. § 3-468.02

**3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 9 A.A.R. 1872, June 13, 2003

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Sherry D. Blatner, Rules Analyst  
Address: Arizona Department of Agriculture  
1688 W. Adams, Room 235  
Phoenix, AZ 85007  
Telephone: (602) 542-0962  
Fax: (602) 542-5420  
E-mail: sherry.blatner@agric.state.az.us

**5. An explanation of the rules, including the agency's reasons for initiating the rules:**

This rulemaking establishes procedures for governance of the Council as prescribed under A.R.S. § 3-468.02.

**6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

*Arizona Administrative Register / Secretary of State*  
**Notices of Proposed Rulemaking**

---

**8. The preliminary summary of the economic, small business, and consumer impact:**

A. *The Arizona Citrus Research Council and the Arizona Department of Agriculture.*

The Council and the Department will incur modest expenses related to educating the regulated community on the new Sections.

B. *Political Subdivision.*

Other than the Council and the Department, the Office of Administrative Hearings may be affected by this rule-making if a hearing is requested.

C. *Businesses Directly Affected by the Rulemaking.*

Citrus producers, grower-shippers, and handlers are the beneficiaries of programs developed by the Council in the following areas:

- Research, development, and survey programs concerning varietal development;
- Citrus pest eradication;
- Production, harvesting, handling, and hauling from field to market; and
- Other programs deemed appropriate by the Council.

The regulated community the Council serves, and their attorneys, will be beneficially affected by the use of the uniform administrative procedures of the Office of Administrative Hearings.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Sherry D. Blatner, Rules Analyst  
Address: Arizona Department of Agriculture  
1688 W. Adams, Room 235  
Phoenix, AZ 85007  
Telephone: (602) 542-0962  
Fax: (602) 542-5420  
E-mail: sherry.blatner@agric.state.az.us

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**

An oral proceeding is not scheduled for these proposed rules. To request an oral proceeding or to submit comments, please contact the rules analyst listed in item #4 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except legal holidays. If a request for an oral proceeding is not made, the public record for this rulemaking will close at 4:30 p.m., September 29, 2003.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 3. AGRICULTURE**

**CHAPTER 9. DEPARTMENT OF AGRICULTURE  
AGRICULTURAL COUNCILS AND COMMISSIONS**

**ARTICLE 5. ARIZONA CITRUS RESEARCH COUNCIL**

Section

<u>R3-9-501.</u>	<u>Definitions</u>
<u>R3-9-502.</u>	<u>Elections</u>
<u>R3-9-503.</u>	<u>Hearings</u>
<u>R3-9-504.</u>	<u>Annual Report</u>
<u>R3-9-505.</u>	<u>Records</u>

**ARTICLE 5. ARIZONA CITRUS RESEARCH COUNCIL**

**R3-9-501. Definitions**

In addition to the definitions in A.R.S. § 3-551, the following term applies to this Article:

“Department” means the Arizona Department of Agriculture.

**R3-9-502. Elections**

**A.** The Council shall elect officers during the first quarter of each calendar year.

**B.** Officers shall continue in office until the next annual election is held.

**C.** An officer may be successively reelected.

**R3-9-503. Hearings**

**A.** The Council shall use the uniform administrative procedures of A.R.S. Title 41, Chapter 6, Article 10 to govern any hearing before the Council.

**B.** A party may file a motion for rehearing or review under A.R.S. § 41-1092.09.

**C.** The Council shall grant a rehearing or review of an administrative law decision for any of the following causes materially affecting the moving party's rights:

**1.** The decision is not justified by the evidence or is contrary to law;

**2.** There is newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original proceeding;

**3.** One or more of the following deprived the party of a fair hearing:

**a.** Irregularity or abuse of discretion in the conduct of the proceeding;

**b.** Misconduct of the Council, the administrative law judge, or the prevailing party; or

**c.** Accident or surprise that could not have been prevented by ordinary prudence; or

**4.** Excessive or insufficient sanction.

**D.** The Council may grant a rehearing or review to any or all of the parties. The rehearing or review may cover all or part of the issues for any of the reasons stated in subsection (C). An order granting a rehearing or review shall particularly state the grounds for granting the rehearing or review, and the rehearing or review shall cover only the grounds stated.

**R3-9-504. Annual Report**

The Council shall prepare an annual report as prescribed under A.R.S. § 3-468.02(A)(5), by October 31.

**R3-9-505. Records**

The Department shall retain the Council's records as authorized by A.R.S. § 3-468.02(A)(4). A record may be reviewed at the Department's main office, Monday through Friday, except an Arizona legal holiday, during the hours of 8:00 a.m. to 5:00 p.m. A copy of a record shall be provided according to the provisions of A.R.S. § 39-121 et seq.